

**STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT**

**IN THE MATTER OF:
Request for Reimbursement Pursuant
to the Provisions of the PECFA Program**

Hearing Number: 96-300
PECFA Claim Number. 54982-0747-39

Harvey Reilly
Reilly Motors, Inc.,

vs.

Wisconsin Department of Commerce,

Appellant

Respondent

On November 6, 1996, the Department of Commerce (department) issued a decision denying Reilly Motors Inc. (appellant) reimbursement of \$7139.98, a portion of its total claim of \$148,739.46. Reilly Motors filed an appeal to that determination on December 10, 1996. On December 17, 1996, a motion to dismiss was filed by the department arguing that the appeal was not timely. Following a Pre-hearing Conference on May 1, 1998, before Administrative Law Judge James R. Sturm, acting as a state hearing officer, the appellant filed an answer to that motion dated May 26 1998, in the form of an affidavit

Based on the applicable records and evidence in this case, the appeal tribunal makes the following

CONCLUSIONS OF LAW

1. Reilly Motors Inc. is a property owner within the meaning of section of 101.143 of the Wisconsin Statutes.
2. On November 6, 1996, the Department of Commerce (department) issued a decision denying Reilly Motors Inc. (appellant) reimbursement of \$7139.98.
3. Reilly Motors filed an appeal to that determination on December 10, 1996.

DISCUSSION

The determination in this matter clearly states that "A request for hearing will be denied if the appeal is RECEIVED by the department more than 30 calendar days after the DATE OF DECISION indicated on the face of the PECFA award summary, titled "Breakdown of PECFA Costs". The appellant concedes that its appeal was late however, it argues that it was late due to inadvertence and excusable neglect relating to lack of legal expertise. However, there are no provisions for good cause and the late appeal cannot, under these circumstances, be cured or waived.

DECISION

The appeal of Reilly Motors, Inc. is hereby dismissed. The initial determination issued on November 6, 1996, shall remain in effect.

Dated this 2nd day of March, 1999

James R. Sturm
Administrative Law Judge
Hearing Office
1801 Aberg Avenue, Suite A
P.O. Box 7985
Madison, WI 53797-7985

NOTE: This matter seems to have been regrettably delayed due to circumstances that are not entirely clear and for that delay and inconvenience, the Administrative Law Judge apologizes.

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